

***Effective 5/13/2014***

**17-50-303 County may not give or lend credit -- County may borrow in anticipation of revenues -- Assistance to nonprofit and private entities.**

- (1) A county may not give or lend its credit to or in aid of any person or corporation, or, except as provided in Subsection (3), appropriate money in aid of any private enterprise.
- (2)
  - (a) A county may borrow money in anticipation of the collection of taxes and other county revenues in the manner and subject to the conditions of Title 11, Chapter 14, Local Government Bonding Act.
  - (b) A county may incur indebtedness under Subsection (2)(a) for any purpose for which funds of the county may be expended.
- (3)
  - (a) A county may appropriate money to or provide nonmonetary assistance to a nonprofit entity, or waive fees required to be paid by a nonprofit entity, if, in the judgment of the county legislative body, the assistance contributes to the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of county residents.
  - (b) A county may appropriate money to a nonprofit entity from the county's own funds or from funds the county receives from the state or any other source.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "Private enterprise" means a person that engages in an activity for profit.
    - (ii) "Project" means an activity engaged in by a private enterprise.
  - (b) A county may appropriate money in aid of a private enterprise project if:
    - (i) subject to Subsection (4)(c), the county receives value in return for the money appropriated; and
    - (ii) in the judgment of the county legislative body, the private enterprise project provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents.
  - (c) The county shall measure the net value received by the county for money appropriated by the county to a private entity on a project-by-project basis over the life of the project.
  - (d)
    - (i) Before a county legislative body may appropriate funds in aid of a private enterprise project under this Subsection (4), the county legislative body shall:
      - (A) adopt by ordinance criteria to determine what value, if any, the county will receive in return for money appropriated under this Subsection (4);
      - (B) conduct a study as described in Subsection (4)(e) on the proposed appropriation and private enterprise project; and
      - (C) post notice, subject to Subsection (4)(f), and hold a public hearing on the proposed appropriation and the private enterprise project.
    - (ii) The county legislative body may consider an intangible benefit as a value received by the county.
  - (e)
    - (i) Before publishing or posting notice in accordance with Subsection (4)(f), the county shall study:
      - (A) any value the county will receive in return for money or resources appropriated to a private entity;

- (B) the county's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the county residents; and
  - (C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the county in the area of economic development, job creation, affordable housing, blight elimination, job preservation, the preservation of historic structures, analyzing and improving county government structure or property, or any other public purpose.
- (ii) The county shall:
- (A) prepare a written report of the results of the study; and
  - (B) make the report available to the public at least 14 days immediately prior to the scheduled day of the public hearing described in Subsection (4)(d)(i)(C).
- (f) The county shall publish notice of the public hearing required in Subsection (4)(d)(i)(C):
- (i) in a newspaper of general circulation at least 14 days before the date of the hearing or, if there is no newspaper of general circulation, by posting notice in at least three conspicuous places within the county for the same time period; and
  - (ii) on the Utah Public Notice Website created in Section 63F-1-701, at least 14 days before the date of the hearing.
- (g)
- (i) A person may appeal the decision of the county legislative body to appropriate funds under this Subsection (4).
  - (ii) A person shall file an appeal with the district court within 30 days after the day on which the legislative body adopts an ordinance or approves a budget to appropriate the funds.
  - (iii) A court shall:
    - (A) presume that an ordinance adopted or appropriation made under this Subsection (4) is valid; and
    - (B) determine only whether the ordinance or appropriation is arbitrary, capricious, or illegal.
  - (iv) A determination of illegality requires a determination that the decision or ordinance violates a law, statute, or ordinance in effect at the time the decision was made or the ordinance was adopted.
- (v) The district court's review is limited to:
- (A) a review of the criteria adopted by the county legislative body under Subsection (4)(d)(i)(A);
  - (B) the record created by the county legislative body at the public hearing described in Subsection (4)(d)(i)(C); and
  - (C) the record created by the county in preparation of the study and the study itself as described in Subsection (4)(e).
- (vi) If there is no record, the court may call witnesses and take evidence.
- (h) This section applies only to an appropriation not otherwise approved in accordance with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties.

Amended by Chapter 66, 2014 General Session